WEST VIRGINIA CODE: §6B-2-8

§6B-2-8. Exceptions to financial disclosure requirements and conflicts of interest provisions.

(a) Any person regulated by the provisions of this article need not report the holdings of or the source of income from any of the holdings of:

(1) Any qualified blind trust; or

(2) A trust --

(A) Which was not created directly by such individual, his spouse, or any dependent child, and

(B) The holdings or sources of income of which such individual, or a member of his or her immediate family, have no knowledge.

Failure to report the holdings of or the source of income of any trust referred to herein in good faith reliance upon this section shall not constitute a violation of sections six or seven of this article.

(b) The provisions of subsection (d), section five of this article shall not apply to holdings which are assets within the trusts referred to in subsection (a) of this section.

(c) For purposes of this section, the term "qualified blind trust" includes a trust in which a regulated person or immediate family has a beneficial interest in the principal or income, and which meets the following requirements:

(1) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust) --

(A) Is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party;

(B) Is not or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(C) Is not a relative of any interested party.

(2) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Ethics

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Commission;

(3) The trust instrument which establishes the trust provides that --

(A) Except to the extent provided in paragraph (F) of this subdivision the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(B) The trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(C) The trustee shall promptly notify the regulated person and the Ethics Commission when the holdings of any particular asset transferred to the trust by any interested party are disposed of;

(D) The trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(E) An interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law, but such report shall not identify any asset or holding;

(F) Except for communications which solely consist of requests for distribution of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (i) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (ii) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (iii) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(G) The interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this section.

(4) The proposed trust instrument and the proposed trustee is approved by the Ethics Commission and approval shall be given if the conditions of this section are met.

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